

March 8, 2002

Mr. Olutoye Bello
Acting Zoning Administrator
Building and Land Regulatory Administration
Suite 2000
Department of Consumer and Regulatory Affairs
941 N. Capitol Street NE
Washington, DC 20002

Dear Mr. Bello:

The following are the comments of Advisory Neighborhood Commission 3C on the Notice of Intent to Adopt Standard Operating Procedures for implementing Title 11 DCMR Chapter 13 "Neighborhood Commercial Overlay District Limitation for Eating and Drinking Establishments, pursuant to DC Official Code Section 1-309.10," published in the DC Register February 8, 2002.

Total Linear Frontage

ANC3C agrees that total linear frontage for restricted use establishments, as measured pursuant to 11 DCMR §1302.5, will include, in the case of establishments that occupy a corner lot, frontage on both designated roadways.

ANC 3C also agrees that accessory use should be measured as DCRA has proposed.

While your proposal is silent on the issue, the ANC believes that any exits and entrances of establishments that are not on the ground floor that open onto designated roadways at ground level should be included in the measurement of the 25% limit on eating and drinking establishments.

ANC3C agrees that total linear frontage does not include eating or drinking establishments above and below the ground floor level, but we do not agree with the statement in the procedures that "current regulations adopted by the Zoning Commission place no limit on Eating and Drinking Establishments on the second floor or higher, or below ground level." The Cleveland Park overlay district provisions contain an express prohibition on the conversion of housing on floors other than the ground floor to non-residential uses after 1987 (11DCMR §1306.5). Any such conversions made after October, 1987 in Cleveland Park violate the CP Overlay District regulations, and should be revoked. If Certificates of Occupancy were erroneously issued after such date, your procedures should make it clear that they will not be renewed under any circumstances after use of the premises by the current business owner has ceased.

Treatment of Vacated Eating and Drinking Establishments.

ZONING COMMISSION
District of Columbia
Case 02-06
ZONING COMMISSION
District of Columbia
CASE NO. 02-06
EXHIBIT NO. 19

The proposed procedures would permit a certificate of occupancy for an eating and drinking establishment to be transferred to a new owner even if the premises have been vacant for up to three years. We can find no regulatory basis for this proposal, and do not agree that it is analogous to abandonment of a non-conforming use as described in 11 DCMR §2000.5. . The objective should be to bring the overall portion of street-level occupancy within the limits established by the overlay district as soon as possible. This entire issue, however, should be determined by the Zoning Commission since it requires authorizing language.

ANC 3C does not agree that Certificates of Occupancy (CO) for a restricted use are required to be issued to new owners who intend to continue that use. The DC Construction Code allows a structure to continue to be occupied notwithstanding a new owner of that structure, but it is the Zoning Code's treatment of COs that determines whether a use, and there could be multiple uses in one structure, complies with CO zoning requirements. When a new business owner applies for a CO the current zoning regulations, including Neighborhood Commercial Overlay Districts, must be satisfied.

Sincerely,

Nancy J. MacWood
Chair

These comments were adopted by Advisory Neighborhood Commission 3C at a special meeting, at which a quorum was present, held on March 7, 2002.